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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/021,267 | 10/29/2001 | Dale S. Cheney | T8263.DIV | 9637 |
| 20480 | 7590 | 07/19/2006 | EXAMINER | |
| STEVEN L. NICHOLS RADER, FISHMAN & GRAVER PLLC 10653 S. RIVER FRONT PARKWAY SUITE 150 SOUTH JORDAN, UT 84095 | | | MAI, TRI M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3727 | |
| DATE MAILED: 07/19/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/021,267 | CHENEY, DALE | |
| | Examiner Tri M. Mai | Art Unit 3727 | |

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 27-30,34-36 and 38-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 27,28,30,34-36,38,39,43-49 and 53 is/are rejected.
- 7) Claim(s) 29,40-42 and 50-52 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. Claims 27, 28, 30, 34, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Remington et al. (4363226). Remington teaches a base structure, a lid, two lid actuators 34, 36, and two lid latches 42. The lid actuator including a hooking cam to engage the lid latch, the first and second lid actuators being coupled together by a cable and pulley system for simultaneous operation.

Regarding claim 34, note the L shape on the side of portion 16.

2. Claims 35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Saunders (1155447). Saunders teaches storage box having a base structure, a lid, a lid coupler connected to the lid and the base structure, a lid coupler including a lid latch and a lid actuator. The lid actuator including a hooking cam 11 to engage the lid latch 10 while the lid is in an open position such that the lid latch tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the thickness of portion 14.

Regarding the new limitation wherein the lid actuator rotates substantially 180 degrees, it is submitted that the curve portion 14 is about 180 degrees. Thus portion 10 can travel 180 degrees as claimed, depending on the rotating closing. There is nothing to limit the traveling of portion 10 the entire curved portion 14. Furthermore, it is noted that the the claim must be distinguished from the prior art in term of structure rather than function. *In re Danly*, 263 F.2d 844, 847(CCPA 1959). Furthermore, apparatus claims cover what a device is, not what a device does, *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F. 2d 1464, 1469 (CCPA 1985). See

MPEP 2114. In this case, the functionality of the actuator rotating 180 degrees does not impart any structure over the latch structure in Saunder.

Regarding claim 36, to the degree a vehicle is not claimed, the base can be configured to attach to a vehicle as claimed, and can be fit between sidewall of a truck bed.

3. Claims 53 is rejected under 35 U.S.C. 102(b) as being anticipated by Howe (532067), or in the alternative, over Howe. Howe teaches a box having a base structure a, a lid pivotally connected to the base structure, a lid coupler including two lid latches C3 and two lid actuators C. It is noted that the claims defines the lid coupler comprising first and second lid actuator (applicant's portion 22), and first and second lid latch (applicant's portion 24). Howe teaches two lid latches C3 and two lid actuators C. The term "lid coupler" does not impart any more structures than the two lid latches and two lid actuators as defined.

To the degree it is argued that the lid coupler is not in lid/base as set forth in the claim. It would have been obvious to one of ordinary skill in the art to reverse the parts to provide the desired place for attachment. Furthermore, to the degree it is argued that the two portions a and b are not pivotally connected. Official Notice that it would have been obvious to one of ordinary skill in the art to provide a hinge to provide a pivotal connection.

4. Claim 53 is rejected under 35 U.S.C. 102(b) as being anticipated by either Wilkirson (2708302) or Luce (Re16643). Wilkirson teaches a container having a container having a storage box having a base structure, a lid, a lid coupler connected to the lid and the base structure, a lid coupler including a first and second adjustable lid actuators and a first and second adjustable lid latches as claimed.

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5. Claims 35-36, 38, 39, 43-49, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Grove (460437). Grove teaches a container having a container having a storage box having a base structure, a lid, a lid coupler connected to the lid and the base structure, a lid coupler including a lid latch and a lid actuator. The lid actuator including a hooking cam at b3 to engage the lid latch B' while the lid is in an open position such that the lid latch tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the curve and into the notch at B2. With respect the lid rotating substantially along 180 degrees, it is noted that the actuator would travel from the position shown in Fig. 3 to the position shown in Fig. 1 wherein portion b5 is rested on the wall A'. Thus, the actuator travels substantially 180 degrees as claimed.

Regarding claim 43, note that the surface shown in Fig. 3 is the front of the structure as claimed. Surface A is the side of the structure.

6. Claims 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grove in view of Howe. It would have been obvious to one of ordinary skill in the art to provide two lid couplers in Grove as taught by Howe to provide added security.

7. Claims 29, 40-42, and 50-52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant's arguments have been fully considered but they are not persuasive. Applicant asserts that Remington, Saunders, Howe, Wilkirson, and Luce, Grove fails to teach the limitation where the hooking cam to engage the lid while the lid is in an opened position. It is noted that the only open position shown by the specification is that is shown in Fig. 1, where the two

portions of latches are spaced apart. Fig. 7 shows the instants where the two portions are engaging. It is noted that at this stage the lid will be substantially overlap the opening of the base structure and no objects from the base can be retrieved. Similar to that being described in the specification, Remington teaches the hook portion at 38, portion 42 can be positioned to be engaged with distal portion hook portion 38 so that the lid is slightly closed similar to that of applicant. This engagement is similar with all hooking latches shown by Saunders, Howe, Wilkirson, and Luce, Grove as set forth above.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (571)272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727

